

**UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF ALABAMA NORTHEASTERN DIVISION**

<b>LEE ANN MATANANE,</b>	)	
<b>Plaintiff,</b>	)	
<b>v.</b>	)	<b>5:17-cv-00270-MHH</b>
<b>STATE OF ALABAMA,</b>	)	
<b>MARTHA WILLIAMS,</b>	)	
<b>MATT GENTRY, et al.,</b>	)	
<b>Defendant,</b>	)	

**PETITION FOR DECLARATORY JUDGEMENT**

COMES NOW your Petitioner, LEE ANN MATANANE, through undersigned Counsel, and pursuant to 28 U.S.C sections 2202-2202 alleges the following:

1. That on September 13, 2008; the Court entered an Order which, in pertinent part, is as follows:

“1. Subject to the exceptions identified below-and until Cullman County proposes alternative, constitutionally-sound procedures-following arrests. the Sheriff of Cullman County must release all bail-eligible defendants on unsecured appearance bonds using Cullman County’s current bail schedule.
2. That your Petitioner was arrested and charged with the crimes of Attempted Murder and Assault in the Second Degree on March 3, 2018 and incarcerated in the Cullman County Jail.
3. Respondents are the same as in the **SHULTZ** matter.
4. On March 21, 2018; Petitioner filed an Affidavit of Substantial Hardship with the County District Court (Ex. A) asserting indigency.
5. That on March 30, 2018; the Cullman District Court granted Petitioner’s application for court appointed counsel. (Ex. B.)

6. That petitioner's bail was set at \$75,000.00 cash only. (Exhibit C)

7. That on or about May 17, 2018: Petitioner was indicted for the aforementioned crimes with bail being set by Circuit Judge Martha Williams at \$70,000.00 cash. (Ex. D.).

8. That the Petitioner has remained incarcerated since her arrest.

9. That numerous motions to reduce the Petitioner's bail have been rejected.

10. Petitioner alleges that cash-only bail (as pertains to an indigent) is not bail at all.

11. That cash-only bail violates the Fifth Amendment Due Process Clause and the Equal Protection Clause of the Fourteenth; United States Constitution of America (U.S.C.A.).

12. Due to the inability of the Petitioner to obtain constitutionally permissible bail; she has filed a Petition for Writ of Habeas Corpus with the United States District Court in the case of *Lee Ann Matanane v. Sheriff Matt Gentry 5:19-CV-00051-KOB-TMP*

13. In addition, Petitioner has filed a Motion to Transfer the Habeas case to this Honorable Court for disposition. (Ex. E.). (Which was denied on 01-28-2019). (Attached)

\* \* \* \* \*

### **ISSUE**

**IS YOUR PETITIONER, MATANANE, ENTITLED TO  
RETROACTIVE RELEASE?**

14. In the Court's September 13<sup>th</sup> Order. the Sheriff was not required to release arrestee's who failed to appear for court; were intoxicated; needed medical attention or

on holds from other jurisdictions. (See provision 2. of the Court's Order Attached). Matanane does not fall within any of these categories.

15. Simply put, numerous arrestees who had been incarcerated for months prior to this Court's Order were left behind. Meaning, the Sheriff and other Respondents have not applied this Court's Preliminary Injunction Order to any indigent inmate who was incarcerated prior to its entry.

16. Nor has the Sheriff and his fellow Respondents implemented or applied the procedural safeguards enunciated in this Court's September 13, 2018 Order to those who were incarcerated prior to same.

17. That your Petitioner suffers under the same unconstitutional bail practices and measures as if no Order had been entered.

18. As such, Petitioner requests that this Honorable Court, pursuant to the Declaratory Judgment Act, determine whether this Court's September 13, 2018 is to be applied universally and retroactively to those persons, including your Petitioner, who remain in jail under the prior regime.

Wherefore, Premises Considered; Petitioner requests that the Court declare the relative rights and interests of the parties as pertains to the issue presented; and, after hearing, to declare that the Court's September 13<sup>th</sup> Order is to be applied retroactively to your Petitioner; and, for all other relief deemed mete and just in the Premises; and that the Respondent pay all costs and attorney fees.

**/s/ Thomas E. Drake, II**

Thomas E. Drake, II

Attorney for Defendant

419 2<sup>nd</sup> Ave SW Suite B

Cullman, Alabama 35055

256-739-9445

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 29<sup>th</sup> day of January, 2019, a copy of the following was served on all counsel of record in this cause by one or more of the following in accordance with the Federal Rules of Civil Procedure.

**/s/ Thomas E. Drake, II**  
Thomas E. Drake, II

Exhibit A

DC-18-279

State of Alabama Unified Judicial System	<b>AFFIDAVIT OF SUBSTANTIAL HARDSHIP AND ORDER</b>	Case Number <b>DC-18-279</b>
Form C-18 Page 1 of 2 Rev. 2/98		
IN THE <u>District</u> COURT OF <u>Cullman</u> , ALABAMA (Circuit, District, or Municipal) (Name of County or Municipality)		
STYLE OF CASE: <u>St. of Alabama</u> v. <u>Lee Ann Matanane</u> Plaintiff(s) Defendant(s)		
TYPE OF PROCEEDING: _____ CHARGE(s) (if applicable): <u>Attempted Murder, Assault</u>		
<input type="checkbox"/> CIVIL CASE—I, because of substantial hardship, am unable to pay the docket fee and service fees in this case. I request that payment of these fees be waived initially and taxed as costs at the conclusion of the case. <input type="checkbox"/> CIVIL CASE—(such as paternity, support, termination of parental rights, dependency) - I am financially unable to hire an attorney and I request that the court appoint one for me. <input checked="" type="checkbox"/> CRIMINAL CASE—I am financially unable to hire an attorney and request that the court appoint one for me. <input type="checkbox"/> DELINQUENCY/NEED OF SUPERVISION—I am financially unable to hire an attorney and request that the court appoint one for my child/ren.		

## AFFIDAVIT

## SECTION I

## 1. IDENTIFICATION

Full name Lee Matanane Date of birth 11-27-63  
 Spouse's full name (if married) Separated  
 Complete home address 8012 Co Rd 703 Cullman AL 35055  
 Number of people living in household 1  
 Home telephone number 256-347-2908  
 Occupation/Job Disability Length of employment 15  
 Driver's license number \_\_\_\_\_ Social Security Number (Last 4 numbers) \_\_\_\_\_  
 Employer N/A Employer's telephone number N/A  
 Employer's address N/A

## 2. SUBSTITUTION BENEFITS

Do you or anyone residing in your household receive benefits from any of the following sources? (If so, please check those which apply.)

☒ Food Stamps ☐ SSI ☐ Medicaid ☐ Other Disability **FILED IN OFFICE**

## 3. INCOME STATEMENT

Monthly Gross Income:  
 Monthly Net Income  
 Spouse's Monthly Gross Income (unless a separate offense)  
 Other Earnings: Commissions, Bonuses, Interest Income, etc.  
 Contributions from Other People Living in Household  
 Unemployment/Workman's Compensation,  
 Social Security, Retirement, etc.  
 Other Income (be specific) 0

TOTAL MONTHLY GROSS INCOME

\$ 0  
0  
0  
0  
0

MAR 13 2018

LISA McSWAIN  
 CIRCUIT CLERK  
 CULLMAN COUNTY

\$ 0

## Monthly Expenses:

A. Living Expenses  
 Rent/Mortgage  
 Total Utilities: Gas, Electricity, Water, etc.  
 Food  
 Clothing  
 Health Care/Medical  
 Insurance  
 Car Payment(s)/Transportation Expenses  
 Loan Payment(s)

\$ 0  
0  
0  
0  
0  
0  
0

\*OPTIONAL


Form C-18 Page 2 of 2 Rev. 2/95		<b>AFFIDAVIT OF SUBSTANTIAL HARDSHIP AND ORDER</b>	
<b>Monthly Expenses: (cont'd page 1)</b> Credit Card Payment(s) _____ Educational/Employment Expenses _____ Other Expenses (be specific) _____		<u>0</u> <u>0</u> <u>0</u>	
<b>Sub-Total</b>			A \$ <u>0</u>
B. Child Support Payment(s)/Alimony _____		\$ <u>0</u>	
<b>Sub-Total</b>			B \$ <u>0</u>
C. Exceptional Expenses _____		\$ <u>0</u>	
<b>TOTAL MONTHLY EXPENSES (add subtotals from A &amp; B monthly only)</b>			\$ <u>6</u>
<b>Total Gross Monthly Income Less total monthly expenses:</b> <div style="text-align: right; padding-right: 50px;"><b>DISPOSABLE MONTHLY INCOME</b></div> <div style="text-align: right;">\$ <u>0</u></div>			
<b>4. LIQUID ASSETS:</b> Cash on Hand/Bank (for otherwise available such as stocks, bonds, certificates of deposit) _____ \$ <u>0</u> Equity in Real Estate (value of property less what you owe) _____ Equity in Personal Property, etc. (such as the value of motor vehicles, stereo, VCR, furnishing, jewelry, tools, guns, less what you owe) _____ Other (be specific) _____ Do you own anything else of value? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (land, house, boat, TV, stereo, jewelry) If so, describe _____			
<b>TOTAL LIQUID ASSETS</b>			\$ <u>0</u>
<b>5. Affidavit/Request</b> I swear or affirm that the answers are true and reflect my current financial status. I understand that a false statement or answer to any question in the affidavit may subject me to the penalties of perjury. I authorize the court or its authorized representative to obtain records of information pertaining to my financial status from any source in order to verify information provided by me. I further understand and acknowledge that, if the court appoints an attorney to represent me, the court may require me to pay all or part of the fees and expenses of my court-appointed counsel.			
Sworn to and subscribed before me this <u>12<sup>th</sup></u> day of <u>March</u> , 2018 <u>D.P. James Mackey</u> Judge/Clerk/Magistrate		 Lee A. McIntyre Trial or Type Name	
<b>ORDER OF COURT</b>			
<b>SECTION II.</b> <b>IT IS THEREFORE, ORDERED, AND ADJUDGED BY THE COURT AS FOLLOWS:</b> <input type="checkbox"/> Affiant is not indigent and request is <b>DENIED</b> . <input type="checkbox"/> Affiant is partially indigent and able to contribute monetarily toward his/her defense; therefore defendant is ordered to pay \$ _____ toward the anticipated cost of appointed counsel. Said amount is to be paid to the clerk of court or as otherwise ordered and disbursed as follows: _____ <input type="checkbox"/> Affiant is indigent and request is <b>GRANTED</b> . <input type="checkbox"/> The prepayment of docket fees is waived.			
<b>IT IS FURTHER ORDERED AND ADJUDGED that _____ is hereby appointed as counsel to represent affiant.</b> <b>IT IS FURTHER ORDERED AND ADJUDGED that the court reserves the right and may order reimbursement of attorney's fees and expenses, approved by the court and paid to the appointed counsel, and costs of court.</b> Done this _____ day of _____			
_____ Judge			

exhibit B



ELECTRONICALLY FILED  
3/30/2018 9:12 AM  
25-DC-2018-000279.00  
CIRCUIT COURT OF  
CULLMAN COUNTY, ALABAMA  
LISA MCSWAIN, CLERK

IN THE DISTRICT COURT OF CULLMAN COU

STATE OF ALABAMA

V.

MATANANE LEE ANN  
Defendant.

)  
)  
)  
)  
)  
)

Case No.: DC-2018-000279.00

ORDER

Upon proper filing of affidavit of hardship, the court finds the defendant partially indigent and able to contribute monetarily toward their defense. Based on the Defendant's charges the Court has determined that an attorney is due to be appointed to represent the Defendant.

Attorney Jason Knight is hereby appointed to represent the Defendant.

It is further Ordered and Adjudged that the court reserves the right and may order the defendant to reimburse the State of Alabama for all attorney fees, fines or any other costs as approved and ordered by the Court.

DONE this 30<sup>th</sup> day of March, 2018.

/s/ WELLS R. TURNER III  
DISTRICT JUDGE

EX. C

## THE DISTRICT COURT OF CULLMAN COUNTY

Agency # 180301240  
CMS # 18-0323 01

WARRANT NO. \_\_\_\_\_

## COMPLAINT

Before me the undersigned Judge/Clerk/Magistrate of The District Court of Cullman County, Alabama, personally appeared COREY FREEMAN who being duly sworn deposes and says that he has probable cause for believing, and does believe that,

LEE ANN MATAMANE, whose name is otherwise unknown to the affiant, did on or about March 3, 2018, with the intent to commit the crime of Murder (Title 13A-6-2(a) (1) of the Code of Alabama) attempt to intentionally cause the death of another person, to-wit: BENITO MATAMANE, by SHOOTING HIM IN CHEST AREA, in violation of Title 13A-4-2 of the CODE OF ALABAMA,

LEE ANN MATAMANE, whose name is otherwise unknown to the affiant, did on or about March 3, 2018, knowingly and unlawfully enter or remain unlawfully in a dwelling of BENITO MATAMANE, with intent to commit a crime therein to-wit: ATTEMPT TO COMMIT MURDER, and while effecting entry or while in the dwelling or in immediate flight therefrom, said defendant, LEE ANN MATAMANE, or another participant, was armed with an explosive or deadly weapon, to-wit: A HIGH STANDARD SENTINEL .22 CALIBER REVOLVER, in violation of Title 13A-7-5(a) (1) of the CODE OF ALABAMA,

against the peace and dignity of the State of Alabama.

  
Complainant's Signature

Sworn and Subscribed before me this the 16 day of March, 20 18.

  
Judge/Clerk/Magistrate of the Court

## Charges:

1. ATTEMPT TO COMMIT MURDER
2. BURGLARY FIRST DEGREE

Witness for the State

COREY FREEMAN, CULLMAN CO SHERIFF'S OFFICE, CULLMAN, AL

FILED IN OFFICE

MAR 16 2018

LISA HANNAH  
CLERK OF COURT  
CULLMAN COUNTY

DC-18-279



**WARRANT OF ARREST**  
**CULLMAN COUNTY**

**STATE OF ALABAMA**

**DISTRICT COURT**

Agency # 180301240

WARRANT No. \_\_\_\_\_

**TO ANY LAWFUL OFFICER OF THE STATE OF ALABAMA:**

You are hereby commanded to arrest LEE ANN MATANANE and  
bring her before the DISTRICT COURT OF CULLMAN COUNTY, to answer to  
the State of Alabama on a charge of:

1. **ATTEMPT TO COMMIT MURDER**
2. **BURGLARY FIRST DEGREE**

and you have then and there this writ with your return thereon.

You will receive unto your custody and detain her until the \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_.

Bond set at \$ \_\_\_\_\_


\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge/Clerk/Magistrate of District Court



**DEFENDANT INFORMATION**

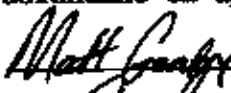
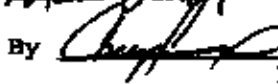
**LEE ANN MATANANE**  
Aliases: None Reported

8012 COUNTY ROAD 703, CULLMAN,  
AL 35055

Race: CAU Sex: F  
Height: 5'03"  
Weight: 125 Eyes: BLU  
Hair: BLN  
D.O.B: 6/27/1963  


**EXECUTION**

Executed the within warrant by arresting the defendant and  
 Placing defendant in the Cullman County Jail  
 Releasing defendant on appearance bond

 Sheriff  
By  Deputy Sheriff

Date: 3-10-18

State of Alabama Unified Judicial System Form CR-6 Rev. 8/98	<b>COMPLAINT</b> (Felony, Misdemeanor, or Violations - District Court or Municipal Court)	Warrant Number <u>DC-18-279</u> Case Number 180301240
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IN THE District COURT OF Cullman, ALABAMA  
 (Circuit, District, or Municipality) (Name of Municipality or County)

☒ STATE OF ALABAMA  
☐ MUNICIPALITY OF v. Lee Ann Matanane  
 Defendant

Before me, the undersigned authority, personally appeared this day the undersigned complainant who, upon first being duly sworn, states on oath that he/she has probable cause for believing, and does believe, that Lee Ann Matanane defendant, whose name is otherwise unknown to the complainant, did, prior to the commencement of this action, on or about 03-10-2018 (date of occurrence) commit the offense of Attempted Murder within the

☒ County of Cullman, Alabama  
☐ City/Town of \_\_\_\_\_ or in the police jurisdiction thereof, in that he/she did: (State specific facts here. Continue on a separate sheet of paper if needed.) Break into her soon to be Ex-Husbands New Home that she has never lived in and shoot him in the upper left chest area. Lee Ann Then assaulted his new girlfriend with the pistol hitting her in the head numerous times busting her head open causing her to need medical treatment by Ambulance. There was surveillance video of Lee Ann Matanane Breaking into the home showing she has no key or any other means of entry other than force.

in violation of

☒ Section 13A4-2(a), Ala. Code 1975.  
☐ Municipal Ordinance Number \_\_\_\_\_, which embraces Section \_\_\_\_\_ Ala. Code 1975, previously adopted, effective and in force at the time the offense was committed.  
☐ Other \_\_\_\_\_

Sworn to and Subscribed before me this 11th day of March, 2018  
Lee Ann Matanane  
 Judge/Magistrate/Warrant Clerk

Facetime @ 12:05 p.m.  
Cory Freeman  
 Complainant  
 1900 Birch Ave SE Cullman, AL 35055  
 Address  
 2565312700  
 Telephone Number

Name	Address	Telephone Number
<u>Cory Freeman</u>	<u>CCSO</u>	
<u>Ryan Hogstad</u>	<u>CCSO</u>	
<u>Dustin Bentley</u>	<u>CCSO</u>	
<u>Josh Wallace</u>	<u>CCSO</u>	

Additional Witnesses on Reverse Side.

FILED IN OFFICE

MAR 11 2018

LISA McNEAM  
 CIRCUIT CLERK  
 CULLMAN COUNTY

State of Alabama Unified Judicial System Form CR-6 Rev. 8/98	<b>COMPLAINT</b> (Felonies, Misdemeanors, or Violations - District Court or Municipal Court)	Warrant Number <u>DC-18-279</u> Case Number <u>180301240</u>
IN THE <u>District</u> COURT OF <u>Cullman</u> , ALABAMA <small>(Circuit, District, or Municipal) (Name of Municipality or County)</small>		
<input checked="" type="checkbox"/> STATE OF ALABAMA <input type="checkbox"/> MUNICIPALITY OF v. <u>Lee Ann Matanane</u> <div style="text-align: right;"><small>Defendant</small></div>		
Before me, the undersigned authority, personally appeared this day the undersigned complainant who, upon first being duly sworn, states on oath that he/she has probable cause for believing, and does believe, that <u>Lee Ann Matanane</u> defendant, whose name is otherwise unknown to the complainant, did, prior to the commencement of this action, on or about <u>03-10-2018</u> (date of occurrence) commit the offense of <u>Burglary 1st Degree</u> within the <u>County of Cullman, Alabama</u> or in the police jurisdiction thereof, in that he/she did: <u>(State specific facts here. Continue on a separate sheet of paper if needed.) Break into her soon to be Ex-Husbands New Home that she has never lived in and shoot him in the upper left chest area. Lee Ann Then assaulted his new girlfriend with the pistol hitting her in the head numerous times busting her head open causing her to need medical treatment by Ambulance. There was surveillance video of Lee Ann Matanane Breaking into the home showing she has no key or any other means of entry other than force.</u> in violation of <input checked="" type="checkbox"/> Section <u>13A-7-5</u> , Ala. Code 1975. <input type="checkbox"/> Municipal Ordinance Number _____, which embraces Section _____ Ala. Code 1975, previously adopted, effective and in force at the time the offense was committed. <input type="checkbox"/> Other _____		
Sworn to and Subscribed before me this <u>11th</u> day of <u>March</u> , <u>2018</u> <u>[Signature]</u> Judge/Magistrate/Warrant Clerk		
Free Time @ 12:05pm <u>Cory Freeman</u> Complainant 1909 Beech Ave SE Cullman, AL 35055 Address 2365312700 Telephone Number		
Name	Address	Telephone Number
<u>Cory Freeman</u>	<u>CCSO</u>	
<u>Ryan Howland</u>	<u>CCSO</u>	
<u>Dustin Bentley</u>	<u>CCSO</u>	
<u>Josh Wallace</u>	<u>CCSO</u>	
Additional Witnesses on Reverse Side.		

FILED IN OFFICE

MAR 11 2018

LISA NEWMAN  
CIRCUIT CLERK  
CULLMAN COUNTY

DC-18-278  
DC-18-279

State of Alabama Unified Judicial System  Form C-61 11/91	<b>ADVICE OF RIGHTS ON INITIAL APPEARANCE BEFORE JUDGE OR MAGISTRATE (Felony)</b>	Case Number  PC
IN THE <u>DISTRICT</u> COURT OF <u>CULLMAN</u> ALABAMA <small>(Circuit, District or Municipal)</small> <small>(Name of County or Municipality)</small>		
<input checked="" type="checkbox"/> STATE OF ALABAMA <input type="checkbox"/> MUNICIPALITY OF _____		
v. <u>LEE ANN MATANANE</u> Defendant		
<p>This is a first appearance hearing. You are charged with committing the offense(s) of <u>ATTEMPTED MURDER</u>  <u>BURGLARY 1ST &amp; ASSAULT 2ND</u> in this court in violation of  <u>CODES 13A-4-2 (a) &amp; 13A-7-3 &amp; 13A-6-2</u>. The primary purpose of this hearing</p> <p>is to ensure that you know and understand the charge or charges against you. At this hearing, there will be no determination made about your guilt or innocence of the crime charged, but only a determination that you know and understand the charge or charges against you. If you are before the court on a complaint following a warrantless arrest, the judge or magistrate will determine whether there is probable cause for the charge against you.</p> <p>In addition, the purpose of this hearing is to determine whether bail should be set in your case; or, if it has been already set, if it should remain the same, be raised, be lowered, or whether you should be released upon your personal recognizance (that is, your promise to appear for future court proceedings) or released in the custody of some responsible person. In order to make this determination, it will be necessary for the judge or magistrate to ask you some questions concerning your ties with the community.</p> <p>You are entitled to be represented by an attorney. You have a right to have your own attorney and will be given time and opportunity to retain an attorney. If you are unable to afford an attorney, one will be appointed for you by the court if you qualify for such representation. It will be necessary for you to complete an indigency questionnaire under oath in order for the court to make this determination.</p> <p>You have a right to talk with your attorney, family, or friends and, if necessary, reasonable means will be provided in order to enable you to do so. You have the right to remain silent. Anything that you say may be used against you.</p> <p>Because you are charged with a felony, you are entitled to demand a preliminary hearing before a judge or magistrate to determine whether there is sufficient evidence to establish that you probably committed the offense or offenses with which you are charged. You must make this demand within thirty (30) days of the date of arrest. If a hearing is demanded and one is conducted, and if, at the conclusion of the preliminary hearing, the judge finds that sufficient evidence has been shown to establish that you probably committed the offense or offenses with which you are charged, the judge will then bind you over for further action by a grand jury. If, on the other hand, the judge finds that the evidence is insufficient to establish that you probably committed the crime or crimes charged, then the judge will dismiss the charge and discharge you from further custody or pre-trial obligations subject to the right of the prosecution to reinstate the charge at a later time.</p> <p>If you are released from custody (whether personal recognizance or otherwise), you must:</p> <ol style="list-style-type: none"> <li>1) Appear to answer and submit to all orders and process of the court having jurisdiction in the case.</li> <li>2) Refrain from committing any criminal offenses.</li> <li>3) Not depart from the State of Alabama without the leave of the court having jurisdiction of this case.</li> <li>4) Promptly notify the court of any change of address or the phone number.</li> <li>5) Other conditions: _____</li> </ol>		
MAR 11 2018 LISA BISHOP CIRCUIT CLERK CULLMAN COUNTY		
<p>The provisions of the Release Order may be revoked or modified by the court for cause. The Release Order and any appearance bond executed in compliance with it will continue in force and effect until the dismissal, acquittal, or conviction on the charges, unless sooner revoked or modified by the court. Upon report of violation of any of the above conditions, a warrant for your arrest will be issued.</p> <p>3/11/2018          Date _____          Judge/Magistrate <i>Lisa Bishop</i> </p> <p>I have read or have been advised of the matters herein set forth. I understand the explanation of procedures, rights, and information given to me at the initial court appearance. I understand the conditions of my release and the penalties applicable in the event that I violate any conditions imposed herein. I also understand that failure to appear as required may subject me to additional charges in the revocation of release.</p> <p>3/11/2018          Date _____          Defendant <u>SKYPE</u> </p>		

DC-18-278  
DC-18-279

State of Alabama Unified Judicial System  Form C-88 Rev. 3/2008	<b>ORDER ON INITIAL APPEARANCE</b>	Case Number  PC
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IN THE District COURT OF Cullman, ALABAMA  
(Circuit, District or Municipality) (Name of County or Municipality)

☒ STATE OF ALABAMA  
☐ MUNICIPALITY OF \_\_\_\_\_ v. LEE ANN MATANANE  
Defendant

The above-named defendant, charged with the criminal offense(s) of ATTEMPTED MURDER/BURGLARY 1ST & 2ND was duly brought before the Court for initial appearance on 03/11/2018 at 11:18 o'clock P. m., whereupon the Court did the following, as checked in the appropriate blocks:

(CHECK AS APPLICABLE)

☒ 1. Name and address of defendant.  
☒ (a) Ascertained the true name and address of the defendant to be: 8012 Co Rd 703 Cullman, AL 35055 disabled  
☐ (b) Amended the formal charges to reflect defendant's true name.  
☐ (c) Instructed the defendant to notify the Court promptly of any change of address.

☒ 2. Informed the defendant of the charges against him/her and ensured that the defendant was served with the charges.

☒ 3. Informed the defendant of the right to be represented by counsel, that he/she would be afforded the opportunity to retain an attorney, and further advised the defendant that, if he/she were indigent and unable to obtain counsel, an attorney would be appointed by the Court to represent him/her.  
 Defendant ☒ requested ☐ did not request court-appointed counsel. If requested counsel, defendant ☒ was ☐ was not given a copy of the Affidavit of Substantial Hardship to complete in order for indigency to be determined. By Jail staff

☒ 4. Informed the defendant that he/she had the right to remain silent and that anything that he/she said could be used against him/her.

☒ 5. Bail  
☐ (a) Determined that the defendant shall not be released from custody since charged with a non-bailable capital offense.  
☒ (b) Determined that the defendant shall be released from custody pending further proceedings, subject to the mandatory conditions prescribed in Rule 7.3(a), Ala.R.Crim.P., and subject to the following additional conditions:  
     ☐ 1.) Execution of an appearance bond (recognizance) in the amount of \$\_\_\_\_\_  
     ☒ 2.) Execution of a secured appearance bond in the amount of \$ 75,000 CASH  
     ☐ 3.) Other conditions (specify) \_\_\_\_\_

☒ 6. If charged with a felony offense, informed the defendant of right to demand a preliminary hearing under Rule 5.1, Ala.R.Crim.P., and of the procedure by which that right may be exercised.

☒ 7. If charged with a felony offense a preliminary hearing was demanded within 30 days of date of arrest by the above named defendant, set a preliminary hearing to be held in the District Court of \_\_\_\_\_ on \_\_\_\_\_ (date) at \_\_\_\_\_ o'clock \_\_\_\_\_ m.  
☐ (a) Notified the District Court that such demand was made.  
☒ (b) Defendant made no demand for a preliminary hearing at the initial appearance hearings.

☒ 8. Other: \_\_\_\_\_

3/11/2018  
Date

*Lisa Andrews*  
Circuit Clerk

DOB 6-27-63  
SINCE 1995  
FILED IN OFFICE  
2018  
CIRCUIT CLERK  
CULLMAN COUNTY  
Can not make bond  
Cond of Bond  
wants to talk to an attorney

DC-18-278  
DC-18-279

### BAIL REQUEST

TO: Judge Turner JUDGE OF THE DISTRICT COURT, CULLMAN, COUNTY, ALABAMA

STATE OF ALABAMA VS. Lee Ann Matanaro

CHARGE: Attempted Murder; Burglary 1<sup>st</sup> TITLE: 13A-4-2 (a) CODE OF ALABAMA  
Assault

THE UNDERSIGNED OFFICER HEREBY REQUESTS THAT THE BOND/BAIL IN THIS CASE BE SET ABOVE THE RECOMMENDED DISCRETIONARY BAIL SCHEDULE. THE REASONS ARE SET FORTH AS FOLLOWS:



**CIRCUMSTANCES OF THE DEFENDANTS AGE, BACKGROUND, AND/OR FAMILY:**

Offender is 54 Yrs old going through a divorce and battles depression. She broke into her husbands new home and shot him



**PRIOR CRIMINAL CONVICTIONS:**



**VIOLENCE WAS PRESENT IN THE ALLEGED COMMISSION OF THE OFFENSE:**

Offender was armed with a hand gun and shot her soon to be Ex-Husband and assaulted his new girlfriend with the gun to the head



**DEFENDANT WAS ARMED WITH A WEAPON IN COMMISSION OF THE OFFENSE:**

Offender was in possession of a handgun and shot her husband and assaulted another female with it



**DEFENDANT HAS THREATENED VICTIM/WITNESS INVOLVED IN THIS OFFENSE:**

Offender threatened to kill both of the victims and then kill herself



**PROPERTY VALUE DURING THE COMMISSION OF THE OFFENSE:**



**RESIDENCE OF THE DEFENDANT:** 8012 CR 703 Cullman, AL 35055



**OTHER REASONS WHICH ARE DESCRIBED AS FOLLOWS:** It is believed that if offender is out on a

property bond she will attempt to harm the victims again or herself. Offenders daughter stated she will try to kill herself if released



ON THE 10<sup>th</sup> DAY OF March 2018 AT 6:20 O'CLOCK p M.

JUDGE Turner OF CULLMAN COUNTY, ALABAMA, WAS

CONTACTED TELEPHONICALLY OR IN PERSON. THE ABOVE MENTIONED FACTS WERE PRESENTED TO HIM.

**FILED IN OFFICE**

MAR 10 2018

LISA BISHAW  
CLERK  
CULLMAN COUNTY

Corey Freeman

OFFICER

Cullman County Sheriff's Office

AGENCY

\* Confirmed w/ Deputy Sims \*

STATE OF ALABAMA

DISTRICT COURT

CULLMAN COUNTY

DEFENDANT:

Lee Ann Motazone

CHARGE:

Attempted Murder; Burglary 1<sup>st</sup>  
Assault 2<sup>nd</sup>

**MAGISTRATE'S AUTHORITY**

Authority for Magistrate to set bail in an amount in excess of the maximum amount posted in the bail schedule, Rule 2(b), Rules of Judicial Administration, as required by Rule 18(2)(b), Rules of Judicial Administration, given by Judge Wells Turner II

☒ telephone ☐ in person at 6:20 o'clock p.m. this 10 day of March, 2018.

AMOUNT AUTHORIZED:

\$ 75,000.00 CASH

Simon McSwain  
MAGISTRATE, DISTRICT COURT

**ORDER SETTING BAIL**

The facts and information in the foregoing request for bail to be set in an amount in excess of the maximum amount posted in the bail schedule, Rule 2(b), Rules of Judicial Administration, having been presented to the Court by Law Enforcement Officer(s)/District Attorney and the court having considered same:

IT IS HEREBY CONSIDERED, ORDERED, ADJUDGED, AND DECREED THAT BAIL IN THIS CASE BE SET AT \$ \_\_\_\_\_.

**FILED IN OFFICE**

**MAR 10 2018**

**LEBA McSWAIN  
CIRCUIT CLERK  
CULLMAN COUNTY**

BAIL REQUEST PAGE 2

\_\_\_\_\_  
JUDGE OF THE DISTRICT COURT  
CULLMAN COUNTY, ALABAMA

\* Confirmed w/ Deputy Sims \*



Agency No. 180301240

Case No. 18-0323

DC No. 18-279

G.I. No. 1805-054

A TRUE BILL presented to the Judge presiding in open Court by the Foreperson of this Grand Jury, in the presence of at least 11 other jurors, and filed in open court this 18 day of May 2018.

Sean  
Grand Jury Foreperson

Lisa Matanane  
Clerk of the Circuit Court  
OF CULLMAN County  
Thirty-Second Judicial Circuit

Date

5/17/18**FILED IN OFFICE**

**INDICTMENT  
THE STATE OF ALABAMA**

**MAY 17 2018**

VS.

**LEE ANN MATANANE, F CAU 6/27/1963**

**LISA MATANANE  
CIRCUIT CLERK  
CULLMAN COUNTY**

**Hair: BLN Eyes: BLU Height: 5'03" Weight: 125 SID: AL0195421****Address: 3012 COUNTY ROAD 783 CULLMAN, AL 35055****Alias****None Reported****CHARGES:**

1. ATTEMPT TO COMMIT MURDER
2. BURGLARY FIRST DEGREE

CLASS: A

TYPE: F

CLASS: A

TYPE: F

Previous Bond \$ 70,000 <sup>cash</sup> Bail fixed at \$ 70,000 <sup>CASH</sup> this 18 day of May 2018.

No Prosecutor.

No contact with alleged victim

W. J. Williams  
Judge Presiding

THE STATE OF ALABAMA

CIRCUIT COURT

Prosecutor:

**C. WILSON BLAYLOCK  
DISTRICT ATTORNEY  
THIRTY-SECOND JUDICIAL**

CC 18-446



Agency No. 18E001246

CMS No. 18-0523

BC No.

G.J. No. 1805-854

**THE STATE OF ALABAMA, CULLMAN COUNTY**  
**Circuit Court – Thirty-Second Judicial Circuit**

---

**COUNT 1**

The Grand Jury of said county charge that, before the finding of this indictment, LEE ANN MATANANE, whose name is otherwise unknown to the Grand Jury, did on or about March 3, 2018, with the intent to commit the crime of Murder (Title 13A-6-2(a)(1) of the Code of Alabama) attempt to intentionally cause the death of another person, to-wit: BENITO MATANANE, by SHOOTING HIM, in violation of Title 13A-4-2 of the CODE OF ALABAMA,

**COUNT 2**

The Grand Jury of said county further charge that, before the finding of this indictment, LEE ANN MATANANE, whose name is otherwise unknown to the Grand Jury, did on or about March 3, 2018, knowingly and unlawfully enter or remain unlawfully in a dwelling of BENITO MATANANE, with intent to commit a crime therein to-wit: ATTEMPT TO COMMIT MURDER, and while effecting entry or while in the dwelling or in immediate flight therefrom, said defendant, LEE ANN MATANANE, or another participant, was armed with an explosive or deadly weapon, to-wit: A PISTOL, in violation of Title 13A-7-5(a)(1) of the CODE OF ALABAMA,

**AGAINST THE PEACE AND DIGNITY OF THE STATE OF ALABAMA.**

**C. WILSON BLAYLOCK**  
District Attorney  
Thirty-Second Judicial Circuit

ACR375

ALABAMA JUDICIAL DATA CENTER  
GRAND JURY OF CULLMAN COUNTY  
WARRANT OF ARREST

GJ 2018 050054.00  
TERM #: 05142018

TO ANY LAW ENFORCEMENT OFFICER OF THE STATE OF ALABAMA:  
AN INDICTMENT HAS BEEN RETURNED BY THE GRAND JURY OF CULLMAN COUNTY  
AGAINST **MATANANE LEE ANN**  
**8012 CO RD 703**  
**CULLMAN AL 35055-0000**

CHARGING THE OFFENSE OF:  
**ATTEMPT - MURDER 13A-004-002 CNTS: 1**  
**BURGLARY 1ST DEGREE 13A-007-005 CNTS: 1**

YOU ARE THEREFORE ORDERED TO ARREST THE PERSON NAMED ABOVE AND BRING THAT PERSON BEFORE A JUDGE OR MAGISTRATE OF THIS COURT TO ANSWER THE CHARGES AGAINST THAT PERSON AND HAVE WITH YOU THEN AND THERE THE WARRANT OF ARREST WITH YOUR RETURN THEREON. IF A JUDGE OR MAGISTRATE OF THIS COURT IS UNAVAILABLE, OR IF THE ARREST IS MADE IN ANOTHER COUNTY, YOU SHALL TAKE THE ACCUSED PERSON BEFORE THE NEAREST OR MOST ACCESSIBLE JUDGE OF MAGISTRATE IN THE COUNTY OF ARREST.

BOND SET AT: \$70,000.00 CASH  
DATE ISSUED: 05/18/2018

CLERK

BY *Jim McDaniel*

EXECUTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, BY  
ARRESTING THE WITHIN NAMED DEFENDANT \_\_\_\_\_

LAW ENFORCEMENT OFFICER  
BY: \_\_\_\_\_

DEFENDANT'S FEATURES:

HT: 5'03" HAIR: BLN DOB: 06/27/1963  
WT: 125 SEX: F EYE: BLU RACE: W

ADDTL COMMENTS:

*Agency 180301240*

*No contact with victim*

05/18/2018 ASW

ACR375

ALABAMA JUDICIAL DATA CENTER  
GRAND JURY OF CULLMAN COUNTY  
WARRANT OF ARREST

GJ 2018 050054.00  
TERM #: 05142018

TO ANY LAW ENFORCEMENT OFFICER OF THE STATE OF ALABAMA:  
AN INDICTMENT HAS BEEN RETURNED BY THE GRAND JURY OF CULLMAN COUNTY  
AGAINST **MATANANE LEE ANN**  
**8012 CO RD 703**  
**CULLMAN AL 35055-0000**

CHARGING THE OFFENSE OF:  
**ATTEMPT - MURDER 13A-004-002 CNTS: 1**  
**BURGLARY 1ST DEGREE 13A-007-005 CNTS: 1**

YOU ARE THEREFORE ORDERED TO ARREST THE PERSON NAMED ABOVE AND BRING THAT PERSON BEFORE A JUDGE OR MAGISTRATE OF THIS COURT TO ANSWER THE CHARGES AGAINST THAT PERSON AND HAVE WITH YOU THEN AND THERE THE WARRANT OF ARREST WITH YOUR RETURN THEREON. IF A JUDGE OR MAGISTRATE OF THIS COURT IS UNAVAILABLE, OR IF THE ARREST IS MADE IN ANOTHER COUNTY, YOU SHALL TAKE THE ACCUSED PERSON BEFORE THE NEAREST OR MOST ACCESSIBLE JUDGE OF MAGISTRATE IN THE COUNTY OF ARREST.

BOND SET AT: \$70,000.00

CASH

DATE ISSUED: 05/18/2018

CLERK

BY

EXECUTED THIS 22 DAY OF May, 2018, BY  
ARRESTING THE WITHIN NAMED DEFENDANT Lee Ann Matanane

Det. James H. H. H.  
LAW ENFORCEMENT OFFICER

BY:

Mat H. G. G.

DEFENDANT'S FEATURES:

HT: 5'03" HAIR: BLN DOB: 06/27/1963

WT: 125 SEX: F EYE: BLU RACE: W

ADDTL. COMMENTS:

Agency 180301240

No contact with victim

05/18/2018 ASW

FILED IN OFFICE

MAY 23 2018

LISA McSWAN  
CIRCUIT CLERK  
CULLMAN COUNTY

Ex. E

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA**

**LEIGH ANN MATANANE,**

**PLAINTIFF,**

**VS.**

**SHERIFF MATT GENTRY,**

**DEFENDANT.**

**CASE NO.:**

**MOTION TO TRANSFER PETITION**

COMES NOW the Petitioner, by and through his attorney of record, Thomas E. Drake, Jr. and, moves the Court as follows:

- I. Movant requests that the above-entitled matter be transferred to Judge Madeline H. Haikala for those reasons which follow:
  - A. Judge Haikala recently superintended over the case of *Schultz et al v. State of Alabama*, 5:17-cv-00270-MHH) which resulted in an injunction against the Cullman County Sheriff and the judges in the 32<sup>nd</sup> Judicial Circuit of the State of Alabama (Cullman); and,
  - B. the aforementioned case involved the systematic, mass incarceration of indigent inmates in violation of amendment 8 (U.S.C.A) and the Equal Protection Clause of the fourteenth Amendment (U.S.C.A.);
  - C. Judge Haikala may take judicial notice, to the exclusion of other judges in the Northern District, of the underlying facts of this case; and,
  - D. the above-entitled cause may violate the intent and meaning set forth in Judge Haikala's previous Order.

RESPECTFULLY SUBMITTED,

**/s/Thomas E. Drake, II**  
Thomas E. Drake II DRA 012  
Attorney for Defendant  
419 Second Avenue SW, Suite B  
Cullman, AL 35056-0457  
(256) 739-9445

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 17<sup>th</sup> day of January, 2019, a copy of the foregoing was served on all counsel of record in this cause by one or more of the following in accordance with the Federal Rules of Civil Procedure:

District of Attorney  
C. Wilson Blaylock  
Cullman County Courthouse  
500 2<sup>nd</sup> Avenue SW  
Cullman, AL 35055

**/s/Thomas E. Drake,**  
Thomas E. Drake, II